

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

THOMAS HAYES,

Plaintiff,
v.
Case No. 21-10447
Hon. Denise Page Hood

OFFICER SCHNIERS, et al.,

Defendants.

/

ORDER DENYING MOTION FOR RECONSIDERATION (ECF No. 32)

This matter is before the Court on Defendant Officer Schniers' Motion for Rehearing/Reconsideration. (ECF No. 32) On May 23, 2023, the Court entered an Order denying Defendants' Motions for Summary Judgment. (ECF No. 31) The remaining Defendants have filed a Notice of Appeal from this Court's Order. (ECF No. 33)

The Local Rules of the Eastern District of Michigan provide that any motion for reconsideration of non-final orders must be filed within 14 days after entry of the order. E.D. Mich. LR 7.1(h)(2). No response to the motion and no oral argument are permitted unless the Court Orders otherwise. E.D. Mich. LR 7.1(h)(3). Motions for reconsideration may be brought upon the following grounds:

- (A) The court made a mistake, correcting the mistake changes the outcome of the prior decision, and the mistake was based on the record and law before the court at the time of its prior decision;

(B) An intervening change in controlling law warrants a different outcome; or

(C) New facts warrant a different outcome and the new facts could not have been discovered with reasonable diligence before the prior decision.

E.D. Mich. LR 7.1(h)(2). A motion for reconsideration is not a vehicle to re-hash old arguments, or to proffer new arguments or evidence that the movant could have brought up earlier. *Sault Ste. Marie Tribe v. Engler*, 146 F.3d 367, 374 (6th Cir. 1998)(motions under Fed.R.Civ.P. 59(e) “are aimed at *re* consideration, not initial consideration”)(citing *FDIC v. World Universal Inc.*, 978 F.2d 10, 16 (1st Cir.1992)).

Defendant Schniers asserts the Court failed to address the core question that he struck Plaintiff at all after the take down and that the Court made a mistake in its Opinion. The Court finds that Defendant Schniers’ motion merely presents the same arguments and issues previously ruled upon by the Court, either expressly or by reasonable implication. The Court noted Defendant Schniers’ arguments and concluded that there remained genuine issues of material facts as to whether Defendant Schnier, and the other Defendants, were entitled to qualified immunity. The Court will not reconsider its prior rulings. Defendant Schnier has not shown the Court clearly erred in denying his Motion for Summary Judgment.

Accordingly,

IT IS ORDERED that Defendant Officer Schnier's Motion for Rehearing/Reconsideration (ECF No. 32) is DENIED.

s/Denise Page Hood
DENISE PAGE HOOD
United States District Judge

DATED: September 13, 2023